

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Part 97 of the)
Commission's Rules Governing the)
Amateur Radio Service to Make)
Certain Changes in the Volunteer)
Examination System)

RM- _____

To: The Commission

DOCKET FILE COPY ORIGINAL

PETITION FOR RULE MAKING

The American Radio Relay League, Incorporated (the League), the national association of amateur radio operators in the United States, by counsel and pursuant to Section 1.401 of the Commission's procedural rules (47 C.F.R. §1.401), hereby respectfully requests that the Commission issue a Notice of Proposed Rule Making at an early date looking toward the amendment of Sections 97.507 and 97.509 of the Amateur Radio Service Rules (47 C.F.R. §§97.507, 97.509) so as to permit Advanced Class licensees who are volunteer examiners (VEs) to prepare and administer amateur examination elements for the General Class amateur license, in addition to those for the lower license classes that they can administer at the present time. As good cause for this proposed rule change, the League states as follows:

1. The Amateur Radio Volunteer Examiner system in the United States has worked extremely well since its inception in 1983.¹ It

¹ See, the *Report and Order* in PR Docket 83-27, 54 RR 2d 1068 (1983).

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is a model of volunteerism and an early privatization program that has been entirely successful. The purpose of this petition is to permit greater flexibility in volunteer examination administration, and to eliminate unnecessary regulatory barriers in furtherance of the self-regulatory character of the Amateur Service.

2. The VE program is specifically authorized by Subsections 4(f)(4)(A) and (B) of the Communications Act of 1934, as amended [47 U.S.C. §154(f)(4)(A) and (B)]. These subsections require, among other things, that a volunteer examiner must hold a higher class operator license than the examination being prepared or administered by that examiner, except that the highest class license examinations (the Amateur Extra Class license) may be prepared and administered by VEs holding the same highest class amateur operator license. These eligibility requirements appear straightforward. Nonetheless, the Commission, in implementing the legislation in 1983, interpreted the legislation to require that an examiner, in order to be eligible to administer a telegraphy element to a candidate, to have himself or herself passed the next higher telegraphy element (if one exists). Further, as to written examination elements, the VE must have himself or herself passed the next higher written element (if one exists). *Report and Order*, 58 RR 2d 1068 (1983).

3. There are three telegraphy examination elements and five written examination elements. The telegraphy elements, in ascending order of achievement, are elements 1(A), 1(B) and 1(C). The written examination elements, in ascending order of achievement, are 2,

3(A), 3(B), 4(A) and 4(B). An applicant must, at minimum, successfully pass the following cumulative Elements for each operator class: Novice, Elements 1(A) and 2; Technician, Elements 2 and 3(A); Technician Plus, Elements 1(A), 2 and 3(A); General, Elements 1(B), 2, 3(A) and 3(B); Advanced, Elements 1(B), 2, 3(A), 3(B), and 4(A); and Amateur Extra, 1(C), 2, 3(A), 3(B), 4(A), and 4(B). Credit is given for previous license classes. See, 47 C.F.R. §97.501.

4. The statutory authority that the Commission has for using VEs does not determine eligibility by examination elements. Instead, it distinguishes only by "license class". Thus, the Commission concluded in 1985, a scant two years into the VE program, that the Statute permits the Commission to accept the voluntary services of Amateur Extra Class licensees to administer all examination elements for all license classes; to accept the services of Advanced Class licensees to administer examinations to applicants for General, Technician² and Novice Class candidates; and General Licensees to administer examinations to Technician and Novice candidates. *Amateur Examinations*, 58 RR 2d 741, at 743 (1985). Notwithstanding the finding of statutory authority to accept the voluntary services of Advanced Class licensees to administer General Class examinations, however, the Commission

² The Technician Plus license class did not exist in 1985, but the same rationale applies with respect to Advanced Class examination administration to Technician Plus examination candidates as with respect to General, Technician and Novice class examination candidates.

decided not to do so, and so denied a Petition for Rule Making filed by Mr. Gordon Girton. Order, FCC 85-45, released January 29, 1985. Mr. Girton had requested that Advanced Class amateurs be permitted to administer, among other things, examination element 1(B). The Commission denied the petition, in part, holding that because Advanced Class licensees did not have to pass a higher class element than 1(B) themselves, Advanced Class licensees could not administer element 1(B) to General Class license candidates. On reconsideration, that finding was reversed, but the Commission decided nonetheless not to modify the rules to permit such. This was because the Reconsideration petition did not address the rules change, only the statutory interpretation. Furthermore, the Commission stated:

While this may expand the pool of examiners from which we may seek volunteer assistance at our discretion, its effect is not nearly as dramatic as argued by the commenters. Under our previous interpretation, Advanced class operators were permitted to administer the Novice and Technician Class examinations. According to our statistics, this constitutes some 70% of the examination workload. The examination for the General class, by contrast, comprises only about 12% of the examination load. Thus we concur with the ARRL's assessment that there are sufficient examiners and examination opportunities. It appears that the amateur community has risen to the challenge and has once again shown its indomitable spirit of good will and service to the community by organizing volunteers to administer examinations to over 4,000 applicants each month. This is 50% above the rate they were administered in 1983 under the previous system and we feel that these volunteers are only beginning to achieve maximum efficiency. Therefore, we will continue to accept the voluntary services of only Amateur Extra operators for the administration of element 1(B) for the General Class license at this time.

58 RR 2d at 743.

5. The League was not, in 1985 (only two years after the initiation of the VE program), supportive of Mr. Girton's proposal for expansion of VE eligibility. The League was more concerned at the time about the integrity (and perceived integrity) of the then-nascent VE program. The intention was to make amateur examinations more available than they had been under the Commission's program, and it appeared at the time that there were sufficient numbers of examiners holding Amateur Extra class operator licenses to provide examination opportunities. That determination, valid at the time, is no longer necessarily correct (in all geographical areas). Following the creation of a codeless entry-level license class, there is now a plethora of Technician and Technician-Plus licensees who, hopefully, will choose to upgrade their license class. There is thus a substantial need to maximize the opportunities for license upgrades beyond the Technician and Technician-Plus license classes, and having available Advanced Class licensees to serve as VEs for the General Class examinations is desirable now. Nor is there presently any serious concern about the integrity of the VE program: It is working well, with very few instances of examination irregularities, and a great degree of actual and perceived security in examination preparation and administration.

6. The ARRL-VEC has in the past, and continues, to receive requests from Advanced Class VEs seeking to volunteer for VE teams to administer General Class license examinations. The rule change requested herein would permit these Advanced Class licensees to administer a significant number of additional examinations, thus

creating additional opportunities for operator license class upgrading. The ARRL-VEC, the largest Volunteer Examiner Coordinator among those coordinating amateur examinations, has nearly 24,000 currently accredited VEs. The breakdown of VEs by license class is as follows: approximately 18,500 Amateur Extra Class, 4,700 Advanced Class, and 800 General Class licensees. During the twelve-month period ending in August, 1996, of the 92,953 total examination elements administered at ARRL/VEC test sessions, Advanced and General class VEs could administer 63,721 of those elements [limited to Elements 1(A), 2 and 3(A)]. However, if Advanced Class VEs were permitted to administer examinations up to the General Class level [including Elements 1(B) and 3(B)], then, by the League's calculations, 15,501 additional elements could be administered by those VEs. That would take additional pressure off of the Extra Class VEs.

7. The League's proposal includes two minor rule changes to permit Advanced Class VEs to prepare and administer General Class license elements. The ability of the Advanced Class licensee to prepare, as well as administer, General Class examination elements is necessary because of the availability of examination creation software used by some VECs, including the League. The preparation of individual examinations is the precursor of the administration of those elements under the circumstances.

Therefore, the foregoing considered, the American Radio Relay League, Incorporated respectfully requests that the Commission issue a Notice of Proposed Rule Making at an early date looking

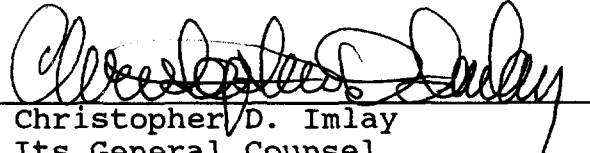
toward the amendment of Sections 97.507(a) and 97.509(b) of the Commission's rules as per the attached Appendix.

Respectfully submitted,

**THE AMERICAN RADIO RELAY
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APPENDIX

1. Section 97.507(a)(1) is amended to read as follows:

(a) Each telegraphy message and each written question set administered to an examinee must be prepared by a VE who has been granted an Amateur Extra Class operator license. A telegraphy message or written question set, however, may also be prepared for the following elements by a VE who has been granted an FCC operator license of the class indicated:

(1) Elements 1(B) and 3(B): Advanced Class operator.

2. Section 97.509(b)(3) is amended to read as follows:

(b) Each administering VE must:

(3) Be a person who has been granted an FCC amateur operator license of the class specified below:

(i) Amateur Extra, Advanced, or General Class in order to administer a Novice, Technician, or Technician Plus Class operator license examination;

(ii) Amateur Extra or Advanced Class in order to administer a General Class operator license examination;

(iii) Amateur Extra Class in order to administer an Advanced or Amateur Extra Class operator license examination.
